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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,377	09/08/2003	James R. Skarda	P-11333.00	1936
27581	7590	09/21/2005	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/657,377	<b>Applicant(s)</b> SKARDA, JAMES R.	
	<b>Examiner</b> Roy D. Gibson	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 33, 34, 42 and 43 is/are rejected.
- 7) ☒ Claim(s) 7-32 and 35-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/9/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5 and 33 are rejected under 35 U.S.C. 102(a) as being anticipated by Mulier et al. (6,537,248) with illustrative clarification by an earlier patent by Mulier et al. (6,016,809).

As to claim 1, Mulier et al. ('248) disclose an ablation catheter assembly comprising:

a catheter shaft, a fluid port near the proximal end of the catheter shaft, and a fluid lumen extending from the port toward the distal end of the catheter shaft (seen best in Mulier et al. '809, Figure 2);

a helical electrode as claimed (Figure 4 of '248) wherein the fluid delivered through the fluid port of the catheter shaft passes through the fluid lumen of the electrode to cool it (col. 5, lines 9-48, col. 6, line 25--col. 7, line 55).

As to claims 2 and 3, Mulier et al. further disclose the tube of the electrode includes an outer diameter and a pitch (distance between the center lines of adjacent coils in the helix) wherein the pitch is about equal to the outer diameter of the tube (Figure 4 and the first coils from the right) and wherein the pitch is greater than the outer

diameter of the tube (Figure 4 and the first coils from the right compared to those on the left and col. 7, line 28-44.

Further to claims 4 and 5, Mulier et al. disclose the first end of the helical ablation electrode extends into the catheter shaft (Figure 2 of '809) and provides the fluid communication between the fluid lumen of the electrode and the fluid lumen of the catheter shaft; and wherein the fluid lumen of the electrode opens exterior to the catheter shaft in proximity to the second end of the electrode (Figure 4 of '248).

### **Claim Rejections - 35 U.S.C. § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier et al. ('248) in view of Mulier et al. ('809). Mulier et al. ('248) lacks the disclosure of a plurality fluid exit ports along the ablation electrode. But, Mulier et al. ('809) disclose such ports (38 in Figure 3 and col. 5, lines 1-9).

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier et al. ('248) in view of Fleishhacker et al. (5,675,662). Mulier et al. disclose a method of delivering ablation energy to a target site essentially as claimed except for

pushing or dragging the distal end of the electrode along a target ablation site (col. 5, lines 9-35). But, Fleishhacker et al. disclose an ablation catheter and method to ablate linear tracks along target tissue by dragging the electrode tip (col. 6, lines 7-17).

Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art of ablation catheters to modify the method of Mulier et al., as taught by Fleishhacker et al., to form a linear ablation track by dragging the tip of the electrode across or along target tissue.

#### **Allowable Subject Matter**

Claims 7-32 and 35-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ein-Gal (6,497,704) discloses an electrosurgical apparatus with a plurality of helical ablation electrodes with one side port (30) and an end port; and Altman et al. (6,358,247) disclose a cardiac drug delivery system with a helical ablation electrode wherein the electrode has a plurality of ports (116, 118, etc.) on the sides of the electrode (cover figure).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roy D. Gibson  
Primary Examiner  
Art Unit 3739

September 16, 2005